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You've Got Rhythm: Curriculum Planning and Teaching Rhythm at Work in the Legal Writing Classroom

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Cover Page Footnote

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Curtis: Curriculum Planning
**YOU'VE GOT RHYTHM:
CURRICULUM PLANNING
AND TEACHING RHYTHM AT WORK
IN THE LEGAL WRITING CLASSROOM**

*Debra Moss Curtis*¹

I. INTRODUCTION

With increasing frequency, attention is being given to the methods and style of teaching the law, and to the educational knowledge of law teachers necessary for their development.² While teachers in many other areas of higher education are required to take credit hours in education courses, that requirement or focus on pedagogy itself has not yet fully spilled over to legal educational professionals.³ In addition, although law professors, have been encouraged to think and learn about the law, they generally have long since accepted the Socratic method as a primary manner of teaching.⁴ Recently information about students' learning styles, and corresponding teaching methods have become a more fluent part of law professors' discussions and planning.⁵

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² See generally Steven I. Friedland, *How We Teach: A Survey of Teaching Techniques in American Law Schools*, 20 SEATTLE U. L. REV. 1 (1996).

³ Filippa Marullo Anzalone, *It All Begins With You: Improving Law School Learning Through Professional Self-Awareness and Critical Reflection*, 24 HAMLINE L. REV. 324, 326 (2001).

⁴ Friedland, *supra* note 2, at 1.

⁵ Friedland, *supra* note 2, at 3.

The purpose of this article is to examine an educational perspective of different teaching styles, and discuss how these styles operate specifically in the legal writing classroom. It will introduce some educational perspectives on teaching styles, curriculum planning and teaching “rhythm” and apply these styles to the legal writing classroom. Finally, it offers some conclusions and recommendations to bring to the teaching of legal writing.

II. TEACHING STYLES

Teachers bring a multitude of styles to the classroom. With those styles come different ways of implementing a key aspect of teaching: course-planning.⁶ Students often focus on the personal style of teachers, rather than on the substantive content of courses.⁷ This section of the article will first detail one scholar’s depiction of different methods of faculty presence, followed by different approaches to course-planning based on style, as well as on different rhythms of teaching based upon those styles.⁸ Why consider teaching style and how it plays out in the legal writing classroom? Self-assessment in the form of learning about

⁶ *Instructional Design and Teaching Styles*, Indiana State University Center for Teaching and Learning, available at <http://web.indstate.edu/ctl/styles/id1.html> (last visited Apr. 16, 2005) [hereinafter *Instructional Design*].

⁷ Anzalone, *supra* note 3, at 326.

⁸ *Teaching Styles and Instructional Uses of the World Wide Web*, Indiana State University Center for Teaching and Learning, available at

pedagogy can serve to impact the classroom situation between teachers and students in a variety of positive ways.⁹ Since there is little emphasis on those becoming law teachers to formally study the educational process, there is often not a clear connection between the course planning and teaching rhythm of those teaching in legal education, particularly legal writing, so as to reach students in the best ways, and encourage and facilitate learning for students of many different styles.

A. Five Teaching Styles

In his 1996 book, *Teaching with Style*, Anthony Grasha discussed the methods and qualities of becoming a better teacher.¹⁰ Grasha charted some approaches to “Identifying the Elements of Style” in the classroom, which include teaching methods employed, behaviors common to all college faculty, roles teachers play, archetypal forms, and personality traits.¹¹ However, he identified five teaching styles as being “prevalent aspects” of all “faculty *presence*” in classrooms.¹²

The first style is that of the “expert.”¹³ An expert has both information and expertise necessary to students, and works to convey that knowledge to them.¹⁴ Experts focus on transmitting

<http://web.indstate.edu/ctl/styles/tstyle.html> (last visited Apr. 16, 2005) [hereinafter *Teaching Styles*].

⁹ Anzalone, *supra* note 3, at 339.

¹⁰ See generally ANTHONY GRASHA, *TEACHING WITH STYLE* 1 (1996).

¹¹ *Id.* at 2.

¹² *Id.* at 153.

¹³ *Id.* at 154.

¹⁴ *Id.* at 154.

information to students, and challenging students to be well prepared and competent.¹⁵ While the advantage of using experts is their expertise, experts may inadvertently intimidate less-experienced students, and fail to focus on the process of arriving at the answer rather than simply the end knowledge produced.¹⁶

Second is the “formal authority” that has gained a certain status with students based on his or her role as a member of the faculty.¹⁷ Those who exhibit this style focus on relaying to students standards for accomplishing goals, and providing students with a structure to reach their goals.¹⁸ Those with formal authority also concern themselves with providing feedback, establishing expectations, and focusing on student conduct.¹⁹ While this method usually sets clear boundaries for students, it may also be a less flexible way of managing students’ needs.²⁰

Those who teach by example exhibit the “personal model” of guiding students.²¹ Teachers in the personal model guide students by exemplifying and encouraging students to emulate their approach to learning.²² This style has the positive attribute of providing a role model and involving students in close observation, but students may feel inadequate if they cannot meet the

¹⁵ GRASHA, *supra* note 10, at 154.

¹⁶ GRASHA, *supra* note 10, at 154.

¹⁷ GRASHA, *supra* note 10, at 154.

¹⁸ GRASHA, *supra* note 10, at 154.

¹⁹ GRASHA, *supra* note 10, at 154.

²⁰ GRASHA, *supra* note 10, at 154.

²¹ GRASHA, *supra* note 10, at 154.

²² GRASHA, *supra* note 10, at 154.

instructor's personal level of achievement in style.²³

A "facilitator," the fourth approach, emphasizes personal student-teacher interactions.²⁴ Facilitators guide students not by personal example, but rather by asking questions, encouraging option exploration and utilizing alternatives, and developing criteria by which to make choices.²⁵ Facilitators operate much like consultants and focus on students' goals and personal differences.²⁶ However, this style is extremely time- consuming for teachers.²⁷

The last style is that of the "delegator," who directs students to work autonomously.²⁸ When a teacher is a delegator, students work independently, with access to the teacher in the form of a resource.²⁹ While students realize great academic gains by acting independently, this style also may cause anxiety, or students may simply not be ready to work on their own.³⁰

Grasha warns that typecasting of faculty members can cause unintended negative effects on teaching. First, when teachers receive feedback that their style is well suited to them and their work, they may become unwilling to explore other styles that may also work well for them.³¹ Second, teachers may then begin to apply one teaching style across the board, to any classes or material taught, rather than taking into account course content,

²³ GRASHA, *supra* note 10, at 154.

²⁴ GRASHA, *supra* note 10, at 154.

²⁵ GRASHA, *supra* note 10, at 154.

²⁶ GRASHA, *supra* note 10, at 154.

²⁷ GRASHA, *supra* note 10, at 154.

²⁸ GRASHA, *supra* note 10, at 154.

²⁹ GRASHA, *supra* note 10, at 154.

³⁰ GRASHA, *supra* note 10, at 154.

students, and environment, all of which should be part of an instructor's approach.³² The use of different teaching methods within a single class is always preferable to sameness of approach.³³

B. Four Course-Design Styles

In addition to teacher's style in the classroom, the Center for Teaching and Learning at Indiana State University has outlined four different curriculum-planning methods that teachers may use, either exclusively or in combination.³⁴ Although these approaches are presented in the context of starting points in planning web-based education, these styles can be applied throughout teaching.³⁵

While the subject matter taught in a course has been called "crucial" to the success of distance education courses,³⁶ arguably, the importance extends to traditional classrooms. The planning of course parts to work together has been studied extensively, but one conclusion has been stated: if classes are to be "memorable," they must be "crafted."³⁷ A study of excellence in college teaching revealed that students' favorite courses had "clear connections" between aims, activities and learning goals.³⁸

³¹ GRASHA, *supra* note 10, at 7.

³² GRASHA, *supra* note 10, at 7.

³³ Paul Bateman, *Toward Diversity in Teaching Methods in Law Schools: Five Suggestions from the Back Row*, 17 QUINNIPIAC L. REV. 397, 426 (1997).

³⁴ *Teaching Styles*, *supra* note 8 (citing GRASHA, *supra* note 10, at 155).

³⁵ *Teaching Styles*, *supra* note 8. Specifically, the Center for Learning and Teaching's web site deals with designing web pages for web-based courses.

³⁶ *Instructional Design*, *supra* note 6.

³⁷ *Instructional Design*, *supra* note 6.

³⁸ *Instructional Design*, *supra* note 6.

One important consideration is that some educators distinguish teaching styles by the materials made available to students. One such examination has identified four material distribution (or lack thereof) types: presentation — prepared slides for display during the lecture which are available to students before or after class; public notes — the content of the lecture is available for students as a guide during the lecture; private notes — to guide the lecturer, but not available to students; and discussion — classroom sessions based on a publicly available agenda to highlight topics.³⁹ These distinctions also may be considered in any of the teaching methods discussed below. The four methods discussed are not necessarily exclusive, but as discussed in Part III of this article, should be used by teachers to find an effective combination.

Curriculum and instruction themselves require discussion. What is curriculum? Educators have struggled with putting a precise definition to this generic word for years.⁴⁰ Most often, written plans having to do with sets of subjects, taught in school, course content, and programs of studies are considered “the curriculum.”⁴¹ It may be considered narrowly, as in what subjects are to be taught, or more broadly, such as the general overall experience of learners.⁴² One specific definition of curriculum has

³⁹ *Teaching Styles*, College of Computing at Georgia Tech University Future Computing Environments, *available at* <http://www.cc.gatech.edu/fce/c2000/pubs/mm96/node6.html> (last visited Mar. 9, 2005).

⁴⁰ PETER F. OLIVA, *DEVELOPING THE CURRICULUM 2* (6th ed. 2005).

⁴¹ *Id.* at 3.

⁴² *Id.*

divided it into four elements: first, the program of studies for students; second, the program of experiences for students, third, the program of services for students, and last, a “hidden curriculum.”⁴³ This last concept is meant to encompass values promoted by the school, including the physical and social climate.⁴⁴

Curriculum must be compared with instruction — commonly, curriculum is “what” students are taught, while instruction is “how” students are taught.⁴⁵ The understanding of curriculum and instruction are interesting in the law school setting. On the macro level, law schools are not entirely self-regulated — they must pass inspection by the American Bar Association for accreditation.⁴⁶ Looking more closely within the law school environment, some law schools have legal writing programs that have directors organizing “what” is taught, the curriculum, while leaving “how” the material is taught, the instruction, to each individual instructor. Other law schools have “Directorless” programs in which each person teaching legal writing may have more direct input into the “what” as well as the “how.”

These curriculum-planning styles were developed to assist

⁴³ *Id.* at 4.

⁴⁴ *Id.*

⁴⁵ OLIVA, *supra* note 40, at 7.

⁴⁶ *The American Bar Association's Role in the Law School Accreditation Process*, A.B.A., available at <http://www.abanet.org/legaled/accreditation/abarole.html> (last visited Mar. 10, 2005).

teachers in making “thoughtful decisions” about the manner in which they organize course material, something which is seen as critical to students.⁴⁷ They are meant as starting points in planning classroom experiences.⁴⁸

1. Formal Authority Approach

The first approach to course planning is the “formal authority” approach.⁴⁹ The formal authority approach focuses on content, and on defining the “theories, principles, concepts, or terms” that students are to learn, as well as organizing these ideas in course goals or objectives in a particular order.⁵⁰ Formal-authority teachers generally will start the process of planning with goals, which are broad statements of the aims of the course, to create a framework for the work at issue.⁵¹ Goals are designed to give purpose and value, rather than to detail course objectives, which may have precise, measurable outcomes.⁵² Formal-authority planners may derive goals from several sources, including external factors, such as graduate school or professional societies’ expectations; or internal factors, such as student evaluations, and internal school expectations; or even personal factors, such as

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Instructional Design and Teaching Style: Formal Authority Approach*, Indiana State University Center for Teaching and Learning, available at <http://web.indstate.edu/ctl/styles/id2.html> (last visited Mar. 10, 2005) [hereinafter *Formal Authority Approach*].

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

those taken from the teacher's own beliefs.⁵³

The formal-authority approach uses specific lesson plans to share the goals with the students and ensure their achievement.⁵⁴ After defining goals, the approach dictates that objectives for each major goal are defined. Compared with broad, sweeping goals, objectives are "precise and clearly stated knowledge, skills, and attitudes that define successful accomplishment of the goal."⁵⁵ Typically, objectives will describe behavior by the students that is concrete and measurable.⁵⁶

Objectives may be written in many formats. They generally describe levels of expected performance, and may be divided into lessons.⁵⁷ Lesson content generally starts with an overview, and then covers material in a logical order specific to the subject matter.⁵⁸ The activities should result in the accomplishment of the objectives, while being feasible and accessible for all students.⁵⁹

Last, the formal authority approach must have the essential element of evaluation, which should be closely linked to objectives and activities of the course.⁶⁰ There are two general categories for evaluation of the students — formative and summative.⁶¹

⁵³ *Id.*

⁵⁴ *Formal Authority Approach, supra* note 49.

⁵⁵ *Formal Authority Approach, supra* note 49.

⁵⁶ *Formal Authority Approach, supra* note 49.

⁵⁷ *Formal Authority Approach, supra* note 49.

⁵⁸ *Formal Authority Approach, supra* note 49. That is, such order may be chronological, topical, etcetera.

⁵⁹ *Formal Authority Approach, supra* note 49.

⁶⁰ *Formal Authority Approach, supra* note 49.

⁶¹ *Formal Authority Approach, supra* note 49.

Formative evaluations are on-going evaluations which provide feedback to students to improve performance as they work on material throughout the course.⁶² By contrast, summative evaluations measure whether students met the objectives by the conclusion of a course.⁶³

2. *Demonstrator Approach*

The demonstrator approach focuses on performance of certain standards by the students, within clearly defined steps and through situations based on the practical field.⁶⁴ Students are given specific tasks to accomplish, and are graded on their success in completing the task.⁶⁵ In this way, emphasis is clearly on being “able to do,” and not on “knowing about,” certain subjects.⁶⁶

While this task oriented approach is more common in laboratory settings, it also is used to teach other kinds of skills.⁶⁷ In planning these lessons, the most important point is the model that demonstrates successful performance.⁶⁸ Step-by step listings of actions necessary to complete tasks must first be given, and then the lesson must be organized according to the steps required of the

⁶² *Formal Authority Approach*, *supra* note 49.

⁶³ *Formal Authority Approach*, *supra* note 49.

⁶⁴ *Instructional Design and Teaching Style: Demonstrator Approach*, Indiana State University Center for Teaching and Learning, available at <http://web.indstate.edu/ctl/styles/id3.html> (last visited Mar. 10, 2005) [hereinafter *Demonstrator Approach*].

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

task.⁶⁹ Those professors teaching through the demonstrator approach may also actually demonstrate the procedure themselves.⁷⁰

Overall, this approach integrates core knowledge of concepts, principles and theories *into* the tasks, taking the approach that these basic concepts are better learned through performing tasks themselves.⁷¹ Evaluation is both based on success at each task, and the ability to move through the steps, and the overall performance goal reached.⁷²

3. *Facilitator Approach*

The facilitator approach places the most emphasis on having students learn *skills* rather than *content*.⁷³ The focus of this approach is to teach a student “how to learn a subject” rather than to teach specific facts or rote memorization.⁷⁴ Students are taught to develop personal learning habits and complete activities to accomplish this goal.⁷⁵ The goal of this approach is to have students perform competently in practical steps.⁷⁶ Course content,

⁶⁹ *Demonstrator Approach*, *supra* note 64.

⁷⁰ *Demonstrator Approach*, *supra* note 64.

⁷¹ *Demonstrator Approach*, *supra* note 64.

⁷² *Demonstrator Approach*, *supra* note 64.

⁷³ *Instructional Design and Teaching Style: Facilitator Approach*, Indiana State University Center for Teaching and Learning, *available at* <http://web.indstate.edu/ctl/styles/id4.html> (last visited Mar. 10, 2005) [hereinafter *Facilitator Approach*].

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

while essential, is not the principal focus; rather it is problem solving and the resources needed to accomplish it that form the core of the content.⁷⁷

Planning a facilitator-based course requires organizing around the phases of learning that students will encounter.⁷⁸ Students will need to assess their personal characteristics and knowledge, reflect on the subject matter, and then have an understanding of specific learning skills, and how to apply these skills.⁷⁹

Generally, students are evaluated in this approach by their ability to produce a product, rather than on the ability to respond to a test of specific information.⁸⁰ Self-assessment of learning abilities also is paramount in having students successfully assess their progress.⁸¹

4. *Delegator Approach*

The delegator approach focuses on the personal growth of students, rather than on specific content, procedures, or skills.⁸² This approach shapes the personal development of students as whole persons through learning.⁸³ But the approach does not

⁷⁷ *Id.*

⁷⁸ *Facilitator Approach*, *supra* note 73.

⁷⁹ *Facilitator Approach*, *supra* note 73.

⁸⁰ *Facilitator Approach*, *supra* note 73.

⁸¹ *Facilitator Approach*, *supra* note 73.

⁸² *Instructional Design and Teaching Style: Delegator Approach*, Indiana State University Center for Teaching and Learning, available at <http://web.indstate.edu/ctl/styles/id5.html> (last visited Mar. 10, 2005) [hereinafter *Delegator Approach*].

⁸³ *Id.*

attribute the growth simply to the course that is designed, but rather to a specific vision of what that course should accomplish and how students should improve as learners.⁸⁴

Teachers script lessons in the delegator model; that is, the model is focused on starting students on the process of working through problems and situations that model a desired end result.⁸⁵ For example, if students are to be taught to be socially appropriate, the lessons must interact with students using those social skills.⁸⁶

Evaluation of students is accomplished through self-reflection and improvement, assisted by the successful completion of specific projects that can demonstrate growth in real-world competence.⁸⁷

C. The Four Teaching Rhythms

The academic world is one of rhythms and schedules. While organized around a reoccurring year, individual classes have their own individual rhythms — whether weekly or daily — that students can recognize.⁸⁸ Creating a rhythm can help a teacher organize classroom activities to best meet their curriculum goals. Each of the above teaching approaches has a rhythm that can compliment and accomplish the needs of the approach.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Delegator Approach, supra* note 82.

1. *The Formal Authority Rhythm*

In the formal authority rhythm, a typical learning unit is outlined by a timetable, organizing a series of topics that will be addressed for that time period.⁸⁹ Generally, sessions are a formal presenting of materials with time for questions, and the material is addressed sequentially, using similar activities throughout.⁹⁰

The overall format is that of semester or unit organization, and consists of four phases: (1) Content selection (2) Presentation of materials in a systematic manner (3) Formative evaluation of student progress and (4) Students' application of their knowledge in an evaluative setting.⁹¹ Other rhythms may be used in the formal authority approach including: inductive and deductive models (through examples and premises); concept attainment (using hypothesis building), integrative models (using data and looking for support of a hypothesis), and inquiry (using problem-solving).⁹² In each of these rhythms, there is a specific pattern that

⁸⁸ *Teaching Rhythms*, Indiana State University Center for Teaching and Learning, available at <http://web.indstate.edu/ctl/styles/rhythms.html> (last visited Mar. 10, 2005) [hereinafter *Teaching Rhythms*].

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Teaching Rhythms: Formal Authority Rhythms*, Indiana State University Center for Teaching and Learning, available at <http://web.indstate.edu/ctl/styles/rhythm1.html> (last visited Mar. 24, 2005) [hereinafter *Formal Authority Rhythms*].

⁹² *Id.*

students consistently follow to accomplish formal pre-set goals.

2. *The Demonstrator Rhythm*

This skills based approach to content also organizes instruction around a series of steps requiring performance, particularly the development of sets of skills.⁹³ Each step is generally modeled and then performed by students before moving on to the next step.⁹⁴

Therefore, the units or semesters are organized fully around the sets of skills. First there must be a selection of the skills, then the teaching of skill development, and last, test-like activities, or simulations, where students must perform in reality-like situations that mirror those in actual settings.⁹⁵ Variations on this main structure may include the “EDICT rhythm” (Explaining, Demonstrating, Involving, Coaching and Testing); “Social Skill rhythm” (explaining setting, practice of skills, collecting and review of data, with reinforcement); and “Simulation Rhythms” (incorporating games and simulations).⁹⁶

3. *The Facilitator Rhythm*

With facilitator rhythms, the teaching rhythm does not focus on content; instead, the stages of growth in the *development*

⁹³ *Teaching Rhythms: Demonstrator Rhythms*, Indiana State University Center for Teaching and Learning, available at <http://web.indstate.edu/ctl/styles/rhythm2.html> (last visited Mar. 24, 2005).

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.*

of learning skills dictate the teaching cadence.⁹⁷ One approach includes five steps to “improvement cycles” by students, including creating awareness, collecting data, choosing innovation, implementing a plan and reviewing the results.⁹⁸ Other such rhythms include Problem Solving (using problems that require new ways of thinking); Project Based (learners define, develop and evaluate a project); and Team Building (active group participation and development).⁹⁹ Overall, the steps focus on the process of building skills rather than on completing a desired end result.

4. *The Delegator Rhythm*

Since the goal of the delegator is to incorporate students’ learning into personal growth, the rhythm of such a class is clearly integrated with students’ personal development.¹⁰⁰ The rhythm incorporates students’ prior experiences and is connected to their future growth.¹⁰¹ One approach for the delegator classroom involves 12 steps:

- 1) Pose a problem, 2) reflect on the problem, 3) skill development exercises, 4) reports & dialogue, 5) synthesis of responses & second level problem-posing, 6) skill development exercise II, 7) reports & dialogue II, 8) integrating (thematic) materials, 9)

⁹⁷ *Teaching Rhythms: Facilitator Rhythms*, Indiana State University Center for Teaching and Learning, available at <http://web.indstate.edu/ctl/styles/rhythm3.html> (last visited Mar. 24, 2005).

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Teaching Rhythms: Delegator Rhythms*, Indiana State University Center for Teaching and Learning, available at <http://web.indstate.edu/ctl/styles/rhythm4.html> (last visited Mar. 24, 2005).

¹⁰¹ *Id.*

interim evaluation, 10) dialogic presentation, 11) learner response, 12) development of solutions.¹⁰²

This rhythm is designed to assist learners in transforming themselves through deeper analysis.¹⁰³

These curriculum-planning approaches and teaching rhythms are meant to get professors started on approaching the material to cover with students. They can be easily and effectively applied to the legal writing classroom.

III. APPLYING TEACHING STYLES TO THE LEGAL WRITING CLASSROOM

When teaching first year legal research and writing (LRW), or any variation on that course, professors often discuss how it is simply “different” and how the course itself has had to struggle to find its place in the law school curriculum.¹⁰⁴ First and foremost, professors note the huge time commitment that the course involves compared to other, “substantive” based courses in law school.¹⁰⁵

¹⁰² *Id.* (citing IRA SHOR, EMPOWERING EDUCATION: CRITICAL TEACHING FOR SOCIAL CHANGE 237-53 (1992)).

¹⁰³ *Id.*

¹⁰⁴ Lorne Sossin, *Discourse Politics: Legal Research and Writing's Search for a Pedagogy of Its Own*, 29 NEW ENG. L. REV. 883, 887 (1995).

¹⁰⁵ At Nova Southeastern University (NSU), our first year program is entitled Lawyering Skills and Values, (LSV) and covers six credits of research, writing, skills and ethics over the first two semesters. See Shepard Broad Law Center, Nova Southeastern University, Lawyering Skills and Values, available at <http://www.nsulaw.nova.edu/lsv> (last visited Apr. 6, 2005).

The distinctions between LRW and other first-year courses are frequently clear and numerous.¹⁰⁶

First, for many students, their LRW course is the only course in which they may be required to complete assignments throughout the semester, rather than only taking a single evaluative exam at the end of the course.¹⁰⁷ Not only are students required to complete assignments throughout the semester, but in most cases, they receive direct feedback on those assignments, in the form of grades or comments directed at the work.

This feedback element is critical both to students' perceptions that LRW is "different" and to the huge time commitment required of teaching the course.¹⁰⁸ Students, full of anxiety and stress about the law school experience in general, often channel all of their distress into a reaction to the only grade they have received in one course. As such, the impact of the grade or

¹⁰⁶ Interestingly, over the last decade in Canada, half of Canadian law schools in one survey taught legal research and writing in a distinct course, while half integrated the skills into another first year substantive course. This clearly changes the dynamic of the classroom and how teaching legal writing is approached. Maureen F. Fitzgerald, *What's Wrong with Legal Research and Writing? Problems and Solutions*, 88 LAW LIBR. J. 247, 249 (1996). In addition, as recently as 1993, the idea of teaching practical skills like legal research began to evolve rapidly in the law school curriculum. Eileen B. Cohen, *Teaching Legal Research to a Diverse Student Body*, 85 LAW LIBR. J. 583, 583 (1993).

¹⁰⁷ Barbara Glesner Fines, *Classroom Assessment Techniques for Law School Teaching*, available at <http://www.law.umkc.edu/faculty/profiles/glesnerfines/cats.htm> (last visited Apr. 6, 2005).

¹⁰⁸ Many law students have complained about a lack of concrete feedback during the semester. Bateman, *supra* note 33, at 416.

feedback can be much greater than its true academic implication, which usually is just a small percentage of a final course grade. The impact is frequently perceived by professors teaching LRW as a change in the personal relationship between student and professor — and generally not for the better.¹⁰⁹ LRW teachers spend enormous amounts of time creating feedback for students, and much has been written on finding the appropriate level of feedback in such assignments.¹¹⁰

But the feedback aspect is not the only distinction between LRW courses and “substantive” courses. LRW courses usually carry fewer credits than other first year courses, despite the heavy workload of assignments involved for students in them. These courses also frequently run for a full academic year, whether in two distinct courses with the same professor all year, or one continuous course. Therefore, when students return for the second semester of law school, they face several new teachers with whom they must begin to develop a dynamic, compared with continuing an already established classroom situation.

Those who teach LRW often hold a different, lower status in the faculty than those teaching other substantive courses.¹¹¹

¹⁰⁹ At NSU, first year LSV professors have often made it a practice to have students complete their semester evaluations of the professor before receiving the grade on their first major assignment of the semester, for concern that that sole substantive grade will negatively impact the evaluation of the professor despite a semester’s worth of teaching.

¹¹⁰ See, e.g., Lissa Griffin, *Teaching Upperclass Writing: Everything You Always Wanted to Know but Were Afraid to Ask*, 34 GONZ. L. REV. 45 (1999).

¹¹¹ Ilhyung Lee, *The Rookie Season*, 39 SANTA CLARA L. REV. 473, 488 (1999).

LRW professors with tenure are a rare, though growing group.¹¹² Many LRW professors who hold “professor” status may in some other way be distinguished, either by employment contracts (some of which are capped in number of years of employment), limited voting rights within the faculty, or other collegial differences.¹¹³ Some programs teaching LRW use only those teachers designated as “Instructors,” “Adjuncts” or even upper-class students, all of whom are sometimes treated with a lack of respect.¹¹⁴ In addition, many of these perceived “lower” positions are filled by women, which can further widen the equality gap in the role of women in the law school environment.¹¹⁵ Last, many schools have “Directors” in charge of the first-year program, while there are no

¹¹² *Id.* at 474-75 n.3-4.

¹¹³ See Maureen Arrigo-Ward, *How to Please Most of the People Most of the Time: Directing (or Teaching in) a First-Year Legal Writing Program*, 29 VAL. U. L. REV. 557, 561 (1995); Christine Haight Farley, *Confronting Expectations: Women in the Legal Academy*, 8 YALE J.L. & FEMINISM 333, 353 (1996).

¹¹⁴ See Susan Hanley Kosse & David T. ButleRitchie, *How Judges, Practitioners, and Legal Writing Teachers Assess the Writing Skills of New Law Graduates: A Comparative Study*, 53 J. LEGAL EDUC. 80, 102 (2003).

¹¹⁵ Farley, *supra* note 113, at 353. At the time of the article’s publication two-thirds of Legal Research and Writing positions were filled by women, creating a so called “pink ghetto” and possibly reinforcing the message that women are not suited for “‘real’ law school teaching.” By 1999, it was being written that LRW instructors had made “great strides,” including teaching doctrinal courses, or obtaining tenure, but were still not being considered mainstream in the legal academy. Toni M. Fine, *Legal Writers Writing: Scholarship and the Demarginalization of Legal Writing Instructors*, 5 J. LEGAL WRITING INST. 225, 225-26 (1999). The 2003 ALWD Survey indicated that 50% of those teaching in Legal Writing Programs were full time non-tenure track teachers with either long term or short-term contracts. Only 8% of those teaching in the program were tenure or tenure-track. In addition, in 2003, 67% of full time writing related employees supervised by directors were women, down from 4% from the 2002 survey. *2003 Survey Results*, Association of Legal Writing Directors, Legal Writing Institute, available at <http://www.alwd.org/> (last visited Apr. 10, 2005) [hereinafter *2003 Survey*].

such authority figures governing any other first year subjects.¹¹⁶ Students may relate differently to those in charge of the classroom when they are aware of these differences.¹¹⁷

In many schools, all of these differences between LRW classrooms and other first year courses can continue to lead students to think of the LRW classroom in a different way, almost like a “homeroom.”¹¹⁸ Frequently, student organizations, such as law reviews, moot court or student government, will make requests for a few minutes of class time to make announcements, which diminishes the importance of class time in many students’ minds. Since there is such personal interaction for a longer period of time, and the subject matter more closely approximates the practice of law, students in the class often ask their professors “real-life” personal legal questions or even questions about their study or employment during or after law school, often during class time when the focus is on another subject.

Also, the LRW classroom usually incorporates a component not found in other first year classes — the individual

¹¹⁶ 2003 Survey, *supra* note 115, at 23. One hundred and forty one of the 165 programs that responded to the question regarding Directors indicated that they did have a professional with direct responsibility for the design, implementation and supervision of the LRW program.

¹¹⁷ See 2003 Survey, *supra* note 115, at 41. The survey noted that of the 155 responses to the question regarding faculty title, 73 responses indicated that the person teaching legal writing held either the title of “Instructor” or “Professor, Associate, or Assistant Professor of Legal Writing.” In addition out of the 259 responses to a question regarding size and location of LRW offices, 109 responses indicated that the LRW offices were either smaller than other professors’ offices, less desirable in location, or segregated from the rest of the faculty. Arguably, students *will* notice these distinctions.

¹¹⁸ See Farley, *supra* note 113, at 356.

student-faculty conference. These conferences can have great importance, to further individualized instruction and create mentoring situations.¹¹⁹ Students can truly benefit from this open kind of discussion to assist them in working through the new kinds of work experienced in LRW.¹²⁰ While it has been argued that conferences can benefit all first-year students throughout all of their course work, generally, these kinds of one-on-one relationships are only routinely developed for the entire class in the LRW setting and are quite time consuming.¹²¹

These differences can lead the legal writing professor to approach his or her class differently as well. While the subject matter of other first-year courses can generally be taught the same way year-to-year, using the same class notes and materials, LRW generally cannot.¹²² In most situations, LRW teachers prepare an entirely *new* set of assignments, either from scratch or built off of older assignments, *each* year for students, while “substantive” course teachers may only need to prepare one new exam each semester.

Such assignments generally include a “closed universe objective memorandum” (research given to students); an “open

¹¹⁹ Philip C. Kissam, *Conferring With Students*, 65 UMKC L. REV. 917, 918 (1997).

¹²⁰ *Id.* at 919.

¹²¹ See Arrigo-Ward, *supra* note 113, at 586.

¹²² The fear in repeating graded assignments is based on students not actually completing the assignments themselves, but rather copying students’ work from previous years. The proliferation of student outline sharing websites has intensified this fear in some. See, e.g., Rominger Legal Law School Outline Links Page, available at <http://www.romingerlegal.com/outline.htm> (last visited

universe objective memorandum” (students also perform research); a persuasive memorandum to a court (either pre-trial or appellate); as well as a host of accompanying research and citation exercises. Each year, the assignments, even if “recycled,” must be updated to reflect current law or rules, and must use appropriate resources or jurisdictions that the student will be able to access in any particular year.

The focus on these assignments and their preparation are necessary parts of the course, but serve to diminish the focus by professors on *educational* approaches to the material. At its core, LRW *can* and *should* be treated with the same educational approaches as any other course that is taught in law school. Despite the factual differences detailed above, some have said that the lines drawn between “doctrinal” and “skills” courses owe more to perception than reality.¹²³ Author and Professor Amy Sloan, in her address to the Third Biennial Conference of the Association of Legal Writing Directors, identified five pedagogical goals that were common to *all* types of law school classes. First, both types of classes use syllogisms to approach legal problems.¹²⁴ Second, all courses use expression in the classroom to create knowledge.¹²⁵ Third, actual black letter law is conveyed in each class.¹²⁶ Fourth, the classes all serve as modes to develop adjustment and

Apr. 6, 2005) (advertising free law school outlines searchable by law school, course and professor).

¹²³ Amy E. Sloan, *Erasing Lines: Integrating the Law School Curriculum*, 1 J. ASSOC. LEGAL WRITING DIRECTORS 3 (2002).

¹²⁴ *Id.* at 4.

¹²⁵ *Id.*

socialization of students into the legal community.¹²⁷ Last, both kinds of courses need to take into account students' learning styles.¹²⁸ As such, the basic needs of all law courses can be seen as similar.

The legal writing class, with its diverse coverage of concepts, skills and personal development, actually requires a professor to use *all* of the above detailed curriculum approaches and rhythms to successfully reach students and prepare them in their roles as budding lawyers. As some have noted, the content and pedagogy of the LRW class are "inextricably bound"; assignment preparation, no matter how individually time-consuming, should not be seen as being separate from educational planning.¹²⁹

Use of a variety of approaches and rhythms can assist a professor in reaching students who learn by different styles.¹³⁰ If the purpose of having class time is to "maximize student learning,"¹³¹ then switching-up the pace can help reach some of the new generation of students, who have been considered to have shorter attention spans, expect breaks, and expect to have the

¹²⁶ *Id.* at 5.

¹²⁷ *Id.* at 6.

¹²⁸ Sloan, *supra* note 123, at 7.

¹²⁹ Sossin, *supra* note 104, at 891.

¹³⁰ Jennifer Blakely Dalrymple, *Teaching and Learning Law with Graphic Organizers*, available at <http://www.loyno.edu/~dciolino/Courses/GraphicOrganizers.htm> (last visited Apr. 10, 2005).

¹³¹ John M. Rogers, *Class Participation: Random Calling and Anonymous Grading*, 47 J. LEGAL EDUC. 73, 73 (1997).

material broken up into smaller packages of knowledge.¹³² In addition, it has been asserted that changing the teaching methods within a class encourages different students to participate in the process.¹³³ Yet, while the use of different activities has been documented in the legal writing classroom,¹³⁴ the varied use of time does not necessarily imply a curriculum-planning approach to the subject matter, which can be instrumental to the educational experience. Some theories of law school have described the law school experience as a “Bleak Story,” the environment unpleasant, stressful, and unsatisfying.¹³⁵ However, choosing how to approach the LRW classroom through curriculum planning and classroom rhythm can help change that perception.¹³⁶

A. The Formal Authority Approach and Rhythm in the Legal Writing Classroom

Despite the comparative monikers attributed to LRW and other courses — “substantive” versus “skills,” the course of Legal Research and Writing does contain *substantive* content that

¹³² David D. Perlmutter, *Thwarting Misbehavior in the Classroom*, CHRON. REV., April 2, 2004, at B14.

¹³³ Bateman, *supra* note 33, at 399.

¹³⁴ 2003 Survey, *supra* note 115, at 10. The survey detailed different teaching activities and average percentage of time spent in-class (lecture 27%; demonstrations 11.15 %; individual in-class exercises 11.29%; group in-class exercises 16.55%; in-class writing 8.54%; questions, answers and class discussion 24.38%; other activities 18.06%).

¹³⁵ Mitu Gulati et al, *The Happy Charade: An Empirical Examination of the Third Year of Law School*, 51 J. LEGAL EDUC. 235, 237-38 (2001).

¹³⁶ See Susan P. Liemer, *Many Birds, One Stone: Teaching the Law You Love, in Legal Writing Class*, 53 J. LEGAL EDUC. 284, 286, 293 (2003).

students must master.¹³⁷ However, if the substance of a course is defined as “theories, principles, concepts or terms” that students need to learn, clearly there is a significant amount of substance in LRW by which a course or a unit can and should be organized, and the formal authority approach can be of use in planning.¹³⁸

What are these substantive LRW concepts? While not necessarily common law principles established through centuries old cases, LRW content is equally important as it relates directly to the teaching and practice of law. Students learn the research system — not just the skill of developing research, discussed below — but absolute facts and principles: the system of Case Reporters, Shepards, and codification of statutes. Students learn other concrete principles, such as precedent, *stare decisis*, and authority. They learn facts and figures about court set-up and structure. Students may learn about the documents which a lawyer drafts and may be required to factually understand the key elements of an objective memorandum, persuasive memorandum, demand letter, client advice letter, mediation or negotiation statement, complaint, or interrogatory. The pieces of knowledge are not merely tools to an end within a legal problem — they represent specific pieces of substance, which the lawyer must comprehend before tackling the skills involved in creating them. Several first-year courses cover ethics, either the ABA Model

¹³⁷ In addition, at Nova Southeastern University Shepard Broad Law Center, those teaching LSV also are required to teach at least one other non-LRW course, whether first year or upper-class.

¹³⁸ *Formal Authority Approach*, *supra* note 49.

Rules or state-specific rules that govern the conduct of attorneys. This knowledge clearly has substance unto itself, as students are generally required to take an entire “substantive” course later in law school (Professional Responsibility) and in most states will be tested directly on this knowledge in the Multistate Professional Responsibility Examination as part of admission to the Bar.

Therefore, the formal-authority approach can work in teaching parts of LRW. LRW professors first must set goals for presenting this information. As discussed above, goals are not necessarily the detailed course objective — in this situation, assignments with measurable outcomes — but rather the *purposes* and *values* of the information. It is critical that students know *why* they are gaining this information, not just the information itself.

Once a teacher has set goals, he or she must create specific lesson plans for precisely measuring the accomplishment of each goal. In LRW, this plan should include means by which to present this information, whether through lecture, discussion or independent, out-of-class reading. The professor must use specific lessons to build to an objective. For example, in LRW, the overall goal may be to assure that students know the resources available to attorneys. The objectives may be more specific — to understand primary authority, secondary authority, or precedent. The specific lessons that the professor should create will individually cover each of those objectives, in turn sequentially and logically. Finally, students should be evaluated both formatively (feedback to students to improve performance as they are working through

material); and summatively — a final testing that the student has completed which is evaluated for a grade.¹³⁹

The rhythm of formal authority teaching can follow a model of four phases. First, professors should select the content. The choice of content is considered crucial to the teaching of the LRW course.¹⁴⁰ For example, which resources will be taught, and which will not? Several legal writing programs cover state resources in one semester and federal the next; some cover secondary sources all year, while others only barely introduce them. Should regulations and session laws be taught in detail or should the focus be on codified statutes and cases? These decisions must be made in the content selection phase, as the class teaching rhythm cannot be established without such clearly defined selections.

Second, teachers must present content systematically. For example, it is wholly illogical to teach Shepard's before teaching case reporters, but some programs introduce case reporters before the digests, which are used to find cases. Some programs teach case reporters before statutory codes, while others reverse the procedure. Presenting content "systematically" does not necessarily dictate that there is one correct way to do so; rather, only that the presentation is logical unto itself and well planned. Consideration of material distribution is important at this point — will students follow along with prepared materials? Will they have access to specific notes as guides? Those decisions will also affect

¹³⁹ *Formal Authority Approach*, *supra* note 49.

the rhythm of the classroom and how concepts are presented.

Third, professors need to incorporate a system for evaluating student progress formatively (as the work is forming) into the classroom time. Again, if the goal is understanding resources, with a specific objective in primary sources, the rhythm of the class should include time built-in for evaluation of this knowledge, while it is still being disseminated. Students may do short exercises which test their knowledge of resources, such as features in a case reporter or digest, and get feedback on that specific portion of their knowledge before being required to demonstrate knowledge of the reporter system from start to finish.

In other situations, such as planning to teach ethical rules, students may have an overall goal of learning about the ethical behavior of attorneys, with specific objectives of learning how attorneys must ethically relate information to clients. Lesson plans may further break down this objective into specific ethical rules. Students need to be evaluated formatively by perhaps being quizzed on each individual rule before being required to use the collection of rules in a broader context.

Last, students must apply their knowledge of the content in a final evaluative setting. This setting may take several approaches, such as a final version of a paper on ethics that is graded and counted toward the final course grade; or a final examination that tests objective knowledge on the subject, such as “resources” or specific ethical rules.

¹⁴⁰ Sossin, *supra* note 104, at 894.

How is this different from the current approach to teaching in the legal writing classroom? The formal authority teaching style can help teachers focus on setting clear boundaries for students, which can be important in establishing “control” of the classroom.¹⁴¹ Law students respond well to boundaries and understanding how a classroom is working, which can help them to further their educational experience.¹⁴² With the heavy emphasis placed on LRW being a “skills” course, it is possible that these traditional, formal course-planning and rhythm issues have been overlooked by many of those teaching the course which only serves to emphasize the “difference” between LRW and other courses in students’ minds. By considering the formal authority approach in constructing their syllabi and day-to-day course materials, LRW professors can ensure that the substantive knowledge included within this course is communicated effectively.

B. The Demonstrator Approach and Rhythm in the Legal Writing Classroom

However, LRW class also does seek to teach “skills,” and thus can benefit from other planning approaches. One unique aspect to LRW class is the ability to teach certain kinds of information through *doing*, with the desire for the end result being

¹⁴¹ See *Teaching Styles and the WWW*, Indiana State University Center for Teaching and Learning, available at <http://web.indstate.edu/ctl/styles/5styles/html> (last visited Apr. 19, 2005); Kent Syverud, *Taking Students Seriously: A Guide for New Law Teachers*, 43 J. LEGAL EDUC. 247, 248 (1993).

both “the ability to do” and the substantive knowledge of any particular subject necessary to answer a particular question. While many aspects of legal research represent independent substantive pieces of knowledge, the purpose of that knowledge is often to connect it to a skill that can be performed repeatedly. In LRW class, students perform their skills towards a substantive goal.¹⁴³ For example, if students are assigned an “open” objective memorandum about adverse possession in Georgia, students must *first* learn concrete information both about memoranda and resources in Georgia (possibly best through the formal authority approach) before being able to learn the law of Georgia on this topic to answer the question, through the performance of a skill — legal research itself. The demonstrator model focuses on the learning of the ultimate answer through the actual *doing* of skills, as opposed to the more formal method of presentation. This approach of combining the learning of a subject through *doing* is not new — the “writing to learn” movement has been discussed as far back as the 1960’s.¹⁴⁴

In such an assignment, students are given clearly defined

¹⁴² Syverud, *supra* note 141, at 248.

¹⁴³ The choice of an assignment’s goal is almost endless for a LRW course. However, it has been noted that LRW faculty can and should choose assignments to further that professor’s personal and professional goals, while still meeting other requirements of the classroom. Liemer, *supra* note 136, at 284.

¹⁴⁴ Laurel Currie Oates, *Beyond Communication: Writing as a Means of Learning*, 6 J. LEGAL WRITING INST., 1, 2 (2000).

steps and tasks to accomplish. For example, an assignment would have an ultimate question to answer, but the course could be set up with a series of “Research Exercises” and “Citation Exercises” that use certain skills to teach smaller portions of the substantive knowledge eventually desired. The ultimate goal is to produce that final substantive work: answering the question by connecting those steps. For example, a first research exercise could lead students through the process of researching statutes, with the answers providing the substantive law necessary to eventually write the objective memorandum analyzing the law at issue. A second research exercise could do the same with case law, again bringing in more substantive knowledge on that specific jurisdiction’s laws. A citation exercise could walk students through the proper citation techniques of the actual statutes or cases that students have identified as being relevant to the memorandum they are writing. All of these tasks, as completed, demonstrate a part of the successful performance necessary to produce the final product. This type of active learning can assist students in better absorbing the material, as students use their own learning methods to manipulate the information.¹⁴⁵ By breaking down the final task, for example, the memorandum on adverse possession in Georgia, into these identifiable and measurable tasks, the professor can measure successful performance at each step, redirecting students who falter at any stage and seeing that they repeat these stages, so as to

¹⁴⁵ Robin A. Boyle, *Employing Active-Learning Techniques and Metacognition in Law School: Shifting Energy from Professor to Student*, 81 U. DET. MERCY L. REV. 1, 4 (2003).

produce a better final product.

The rhythm of teaching in the demonstrator approach is to have the unit organized around the skills, an easy fit with most LRW curriculums.¹⁴⁶ Teachers must first select the appropriate skills, such as research and citation, and then teach skill development. Often in the demonstrator approach, teachers will want to model the skills — in LRW this can easily be done through a labeled walk-through in class or PowerPoint presentation showing the method for each skill. It has been written that law school has a lack of “visual learning” in the classroom, but that the visual method can assist in reaching additional students, as it has done in other educational areas.¹⁴⁷ The demonstrator approach to unit planning is ripe with opportunities to reach students in this way, by using visual effects to help students to *do* skills. Finally, the skill should have an evaluatory test-like activity — the actual exercises themselves that are graded by the professor, and a final result that also is graded.

Another approach to this skill-based substantive learning might be the “EDICT Program,” in which an LRW professor could first explain the skill, such as researching, then demonstrate it by a walk-through, but then incorporate student involvement in the learning of that skill. Two further steps in the expanded “EDICT”

¹⁴⁶ Legal research has generally been taught with a compartmentalized, approach of individual research-units ultimately tied together in a system. See Eileen B. Cohen, *Using Cognitive Learning Theories in Teaching Legal Research*, 1(3) PERSP. TEACHING LEGAL RES. & WRITING 79 (1993).

¹⁴⁷ Dalrymple, *supra* note 130.

program can do this: building in-class time activities which involve students in furthering their skills under supervision and coaching by the professor. After these additional steps, there should be a testing phase. Learning “through doing” also leads a professor to a more public availability of presentation materials, as materials prepared in furtherance of learning skills can be of great guidance to students.

The LRW program model is tailor-made for the demonstrator approach. The key to this approach is that skills being taught work towards some substantive knowledge of production, which can carry different weights and purposes in the legal writing classroom. While many LRW professors have instinctively adopted this approach and rhythm to their skill teaching, professors should also give careful consideration to the approach as a whole, not just individual skills being taught. By integrating skill-teaching with substantive knowledge, and integrating the choosing, teaching, and evaluating of skills with this knowledge, students can benefit considerably.

C. The Facilitator Approach and Rhythm in the Legal Writing Classroom

While the demonstrator approach uses skills to produce content, the facilitator approach focuses on skills in and of themselves, separate from content. The ultimate goal of teaching legal research or memorandum-writing is for use in the future, not to have students become experts in the subject on which they are

working during their course time. The law of torts or contracts, for example, are areas on which the student may be tested on a Bar exam. Yet, although LRW is not on the Bar exam, researching, writing, counseling clients or conducting interviews, and knowing how to behave ethically, are skills which the student will need to reproduce in different circumstances innumerable times throughout their careers. Thus, the facilitator approach is quite useful.

The difference in perspective between the demonstrator approach and the facilitator approach in the legal writing classroom can depend largely on the program as set up by the school, program director or individual. Some programs focus on the substance presented in the class, while others deemphasize it. At NSU Law, substance plays into the equation: the first semester of our LSV course focuses on transactional problems, and the second presents the skills in a litigation based setting. In addition, the evaluation of the final product can also serve as a clue as to the focus of the course. Professors may choose to evaluate a memorandum of law, for example, in different ways — by holistic overall letter grades or by specific points allocated to different accomplishments within the memorandum. A memorandum graded by specific points that allocates more points to the answering of a question through the finding of law — what law was found, how was it interpreted, and what arguments were generated from the law — may be more centered in the demonstrator approach. By contrast, a memorandum that allocates more points to the actual writing — whether it is clear and concise with an

analysis that connected facts and rules to make cohesive arguments (rather than the substance of the arguments under the law) — is an indicator of using the facilitator approach model.

Additionally, there may be isolated skills taught throughout the LRW course that are not linked to a final substantive answer. The teaching of these skills is not necessarily improved by doing so. For example, students could be directed to find periodical articles using electronic resources, to locate court rules for a specific jurisdiction, or to learn shepardizing of cases by using on-line resources. The professor is in fact not interested in the final answer to a question, but rather in the *use* of the skill so that it can be replicated. This view of LRW, with a focus on the “cookbook” approach of learning processes, can be found in traditional LRW texts.¹⁴⁸

Finding a facilitator rhythm in the legal writing classroom can present difficulties. Many students experience difficulty in putting together information learned in law school when they are *supposed* to be connected, such as with the elements of a tort. Deliberately structuring the rhythm of a course with no intended substantive connection can, therefore, be quite frustrating to students, who may be unable to see the big picture of using the skill later in their career as a sufficient motivator for learning it now. As the stages of individuals’ learning must dictate the order of teaching, professors also must be careful to structure the isolated learning of skills in an order that makes sense within itself. So

while students may not yet understand how shepardizing can ultimately help them answer a legal question, they can see it as part of the case law finding process.

Such a skill-for-its-own-sake approach may also work in the context of teaching students how to interview or counsel clients. Nearly all client interview materials discuss the “funnel technique” of attorneys, in which mass amounts of information that clients may give are directed into a narrowed point. In learning client interviewing skills generally, the information the client gives in a simulation is not ultimately relevant, but the ability of the student to “funnel” is. Because of the nature of the isolated skills being learned, teacher -created materials may be helpful to students in seeing how the steps to a skill fit together, and how the skills fits into the course as a whole.

The facilitator approach, on its own, serves to highlight the differences that may exist between the manner in which LRW is taught in the first year of law school as compared with other first-year courses. Legal writing teachers have been encouraged to approach the skills classroom as a coach would approach sports’ skills instruction.¹⁴⁹ In the context of the facilitator approach, this sports analogy makes sense: no two sporting contests will be exactly the same, but the sports trainee will be able to call upon “game” skills learned in practice situations. So, too, should the

¹⁴⁸ Sossin, *supra* note 104, at 892. The “cookbook” approach advocates teaches students to follow a “recipe” to learn skills, which can then be duplicated.

¹⁴⁹ James B. Levy, *Legal Research and Writing Pedagogy—What Every New Teacher Needs to Know*, 8(3) PERSP. TEACHING LEGAL RES. & WRITING 103 (2000).

student draw upon “legal” skills for use in solving any legal problem.

In fact, both the facilitator approach and the demonstrator approach are used in other upper-class level skills-based courses during law school. The use of both approaches should be considered carefully within the ultimate goal of any LRW program.

D. The Delegator Approach and Rhythm in the Legal Writing Classroom

The last approach and rhythm to consider is the least established within the law school environment. Generally there is not a lot of focus on “personal growth” in the first year curriculum of law school. However, in a course that teaches skills, ethics, and gives personal feedback, helping students to develop as future members of the Bar may be appropriate. Whenever ethics is an integral part of a course, students must learn to assimilate and absorb these ethical requirements and make them part of their personal habits.

One such method of approaching this personal growth may be in giving specific lessons in professionalism and behavior by lawyers through LRW assignments.¹⁵⁰ Many in the legal profession bemoan the lack of professionalism by new lawyers — for example, knowing how to speak with clients, members of their law firms, and judges — yet do not take the time and effort to

teach professionalism to new lawyers.¹⁵¹ Professionalism is a basic responsibility of lawyers in protecting the rule of law and serving within its bounds.¹⁵² Some consider educating prospective lawyers about professionalism before they enter the bar as critical.¹⁵³ As there has been an attempt to document both the decline in civility in the legal profession and the subsequent harm caused by it, teaching professionalism is sensible.¹⁵⁴ The legal research and writing classroom may be the ideal forum for these lessons.¹⁵⁵

Professionalism is generally a “set of values, ideas, and attitudes shared by a group of professionals,” which, in the law school setting, distinguishes attorneys, or attorneys-to-be from non-attorneys.¹⁵⁶ As part of becoming lawyers and being trained in professionalism, students must master different kinds of learning and develop their capacity for independent “critical thinking.”¹⁵⁷ In addition, students must understand the values of the legal profession.¹⁵⁸

Some believe that “[p]rofessionalism must be enhanced.”¹⁵⁹ LRW offers many opportunities for scripted discussions on

¹⁵⁰ See Liemer, *supra* note 136, at 287.

¹⁵¹ See Philip C. Kissam, *The Decline of Law School Professionalism*, 134 U. PA. L. REV. 251, 253 (1986).

¹⁵² Douglas S. Lang, *The Role of Law Professors: A Critical Force in Shaping Integrity and Professionalism*, 42 S. TEX. L. REV. 509, 509 (2001).

¹⁵³ *Id.* at 517.

¹⁵⁴ Donna C. Chin et al., *One Response to the Decline of Civility in the Legal Profession: Teaching Professionalism in Legal Research and Writing*, 51 RUTGERS L. REV. 889, 890-91 (1999).

¹⁵⁵ *Id.* at 896.

¹⁵⁶ Kissam, *supra* note 151, at 256.

¹⁵⁷ Kissam, *supra* note 151, at 257.

¹⁵⁸ Kissam, *supra* note 151, at 260.

¹⁵⁹ Lang, *supra* note 152, at 509.

professional growth, in the context of a diverse collection of areas, from client interviewing and counseling, to billing, and even oral arguments before a court. It is important to remember that the delegator approach focuses on neither the content of these skills nor the learning of the skills themselves. Rather, it focuses on the personal behaviors that come with experiencing them and learning from doing them. By following the 12-step rhythm, professors can pose a problem, such as how to handle a difficult client, and ask students to reflect on it. Then, professors can build skill exercises around handling the situation, all the way through evaluating students on their abilities to handle certain professionalism related situations. The discussion format of material presentation seems particularly well-suited to this approach, as these discussions will surely build from a general agenda presented to students. Students in this rhythm grow through specific learning and the LRW professor can plan for this learning by using the delegator approach and rhythm of class.

IV. CONCLUSION

There are many approaches to teaching in the LRW classroom. The important consideration is not determining *which* approach is most appropriate, but whether there *is* a reasoned and well-planned curriculum and rhythm to the classroom at all.

To further the experience of students in the LRW classroom and those teaching them, there are a few suggestions for implementing curriculum planning and rhythm. First, if the

program has a director, that person could incorporate general curriculum and course rhythm discussions into regular meetings with the LRW teachers. The group could consider bringing in an educational specialist to assist the team, or simply use their own resources to implement guidelines.

Second, LRW professors individually should consider activities and approaches in planning individual class sessions. When considering a unit, the entire unit should be planned out with a curriculum approach and then what objectives or skills will be used to accomplish it, as well as evaluation techniques to bring the unit together cohesively.

Last, LRW professors need to continue to work within their schools to have the field of LRW recognized as an important educational component of legal education and to diminish the appearance of a distinction between the educational importance of this course and others. As institutional perspectives change, student perceptions will follow and thus open a new possibility of bringing the educational experience together for professors and students. Being aware of and using teaching styles, curriculum planning, and course rhythms can help legal writing teachers to accomplish this goal.